

Appl. No: 09/781,920  
Amdt. Dated July 20, 2005  
Reply to Office action of May 20, 2005

### **REMARKS/ARGUMENTS**

Claims 1-46 remain in the application.

#### **A. Premature Final Office Action.**

MPEP 706.07 directs that:

...The examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal....

In this case, applicant has not been granted a full and fair hearing, nor has a clear issue been developed. The Final Office action includes a response to arguments section that alleges that "Applicant gave a new definition of 'lexicon'." However, no such new definition has been given. In the response filed February 28, 2005 applicant's argued only the definition of "lexicon" appearing in the four corners of the claims themselves.

The Final Office action fails to offer any response or rebuttal to the other points made in the February 28, 2005 response. It is not apparent that these arguments have been considered and given a full and fair hearing. Specifically, the February 28, 2005 response argued that 1) the Gdiff reference does not show a lexicon; 2) the Gdiff reference teaches something opposite the claimed lexicon; 3) the digital sequence contained in the Gdiff file does not correspond to the claimed unique identifier; 4) Gdiff is not a method for *symbolic* exchange. These points are not addressed or rebutted in the final office action and so are believe to apply with equal force.

Further, the basis for maintaining the rejections stated in final office action is that "Applicant explicitly stated that the amended claims do no change the scope of the claims." However, Applicant has never made this explicit statement. The February 28, 2005 response does state that the amendments were not made to distinguish over the reference, however, whether these amendments affect the claim scope is certainly something that the Office should consider.

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It appears that the amendments and arguments presented in the February 28, 2005 response have not been considered by the office and therefore it is premature to make a final rejection. It is respectfully requested that the rejection be withdrawn.

**B. Rejections under 35 U.S.C. 103 (restated for convenience).**

Claims 1-46 were rejected under 35 U.S.C. 103 based upon the Gdiff reference. This rejection is respectfully traversed.

Independent claim 1 calls for, among other things, a transmitting system comprising a first lexicon including a plurality of digital sequence with unique corresponding identifiers. This feature of claim 1 is not shown or suggested by the Gdiff reference.

A "lexicon" as used in claim 1 comprises an association of digital sequences to unique identifiers, for instance, a set of files with a set of unique file names for each file. The lexicon has a plurality of digital sequences, and each digital sequence corresponds to a unique identifier. The lexicon is not, as alleged in the office action, a data format that captures the difference between two files. A particular member of the lexicon may represent a file that is itself a difference between two files, however, the lexicon itself does not capture the difference between files...the lexicon simply stores the association of digital sequences with unique, corresponding identifiers.

The Gdiff file is not a lexicon. The Gdiff file has only one part, a difference file. This one part file may contain a digital sequence, but does not correspond to any unique identifier. The difference file itself is not equivalent to the claimed unique identifier because, if for no other reason, there is not indication that the difference file is unique. There is no hint or suggestion to represent this difference file with a unique identifier.

In an important sense, Gdiff functionality is opposite that of the system of claim 1. Gdiff assumes a situation in which the transmitter and receiver already possess substantially identical copies of a particular file. Gdiff computes an algorithmic difference between a new version of the file and a previous version of the file, then transmits a digital sequence representing the difference. Assuming the new version is only incrementally different than the old version, the transmitted difference file may be smaller than the new version itself. However, Gdiff must

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transmit the entire digital sequence of the difference file because it contains precisely the information that is not known to the receiver.

In contrast, the system of claim 1 transmits a unique identifier in lieu of the digital sequence. If the invention of claim 1 were applied to solve the Gdiff problem, the unique identifier may correspond, for example, to all or part of the updated file, or to all or part of the difference file. The system of claim 1 is not required to compute a difference function, but it is not prohibited from so doing. In fact, in some cases it may be more efficient to transmit unique identifiers corresponding to the entire updated file rather than the differences because unique identifiers can represent arbitrarily large digital sequences. In any case, the unique identifier of claim 1, which may be significantly smaller than either the updated file or the difference file in Gdiff, is transmitted in lieu of the corresponding digital sequence itself. For at least these reasons claim 1 is allowable over the relied on reference.

Claims 2-14 that depend from claim 1 are allowable for at least the same reasons as claim 1 from which they depend as well as the unique limitations presented in those dependent claims.

Independent claim 15 calls for, among other things, providing a transmitting system comprising a first lexicon including a plurality of digital sequence with unique corresponding identifiers. Claim 15 further calls for transmitting a unique identifier to a receiving system in lieu of a digital sequence corresponding to the transmitted identifier. At least these features of claim 15 are not shown or suggested by the relied on reference.

Claim 15 is distinct from Gdiff for many of the reasons set out in regard to claim 1. Specifically, a "lexicon" as used in claim 15 comprises a plurality of digital sequences, where each digital sequence corresponds to a unique identifier. The lexicon is not, as alleged in the office action, a data format that captures the difference between two files. The Gdiff reference teaches a file format that carries a digital sequence determined by a file differencing algorithm. As stated in the reference, the Gdiff format is primarily useful in situations where it is more efficient to distribute the differences between two versions of a file, rather than the entire new version of the file.

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The digital sequence contained in the Gdiff file does not correspond to the claimed unique identifier. The difference file itself is not equivalent to the claimed unique identifier because, if for no other reason, there is not indication that the difference file is unique. Moreover, the digital sequence contained in the Gdiff file does not correspond to a unique identifier as called for in claim 15. The entire digital sequence must be transmitted, whereas claim 15 calls for transmitting the identifier in lieu of the corresponding digital sequence. For at least these reasons claim 15 is allowable over the relied on reference.

Claims 16-28 that depend from claim 15 are allowable for at least the same reasons as claim 15 from which they depend as well as the unique limitations presented in those dependent claims.

Claim 29 calls for a system for symbolic exchange of digital sequences in which first and second computer systems have first and second local lexicons including a plurality of digital sequences with unique corresponding identifiers. The first computer system transmits a first unique identifier to the second computer system in lieu of the corresponding digital sequence. Similarly, claim 39 calls for a method for symbolic exchange including the act of transmitting a unique identifier from a first computer to a second computer in lieu of transmitting a digital sequence corresponding to the unique identifier. These features of claims 29 and 39 are not shown or suggested in the Gdiff reference.

Gdiff is not a method for *symbolic* exchange. Gdiff computes and transmits a difference file which contains a digital sequence that is the exact, not the symbolic, subject of the exchange. The digital sequence contained in a Gdiff file is not a symbol (e.g., a unique identifier), nor is there any suggestion to represent the digital sequence in a Gdiff file with a symbol. In other words, Gdiff teaches only the literal exchange of digital sequences, not the symbolic exchange of digital sequences. For at least these reasons claims 29 and 39 are neither shown nor suggested by the relied on reference.

Claims 30-38 and 40-46 that depend from claims 29 and 39, respectively, are allowable for at least the same reasons as claims 29 and 39 as well as the unique limitations presented in those dependent claims.

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**C. Conclusion.**

In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicants' attorney at the telephone number listed below.

Any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

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